

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ADEKUNLE C. OMOYOSI,

Plaintiff

v.

CENTERS FOR MEDICARE &
MEDICAID SERVICES,

Defendant.

Civil Case No. SAG-20-3321

ORDER

On February 8, 2021, this Court entered a Memorandum Opinion and Order dismissing the original Complaint in this case because Plaintiff Adekunle C. Omoyosi (“Dr. Omoyosi”) had not alleged that he filed a charge or complaint with the EEOC within 45 days of “CMS’s failure to hire him for the position for which he applied.” ECF 30 at 14. Dr. Omoyosi has now filed an Amended Complaint suffering from an identical defect. ECF 39. He alleges Defendant failed to hire him on May 17, 2018, but also alleges he made initial contact with the EEOC in October, 2019, well outside the 45-day window. *Id.* He also makes reference to other job “announcements as of today, for a total of fifteen (15) positions” presumably including the language Dr. Omoyosi challenges, ECF 39 at 2. However, Dr. Omoyosi fails to allege that he applied for any of those fifteen positions, or to allege the dates of any such unsuccessful applications. *Id.* Even taking the allegations in his Amended Complaint as true, then, the allegations do not establish that Dr. Omoyosi, on any occasion, contacted the EEOC within 45 days of being denied employment, so as to exhaust his administrative remedies for an adverse decision. This Court will therefore **GRANT** Defendant’s Motion to Dismiss the Amended Complaint, ECF 37, and will **CLOSE** this

case, subject to reopening only if a motion for leave to amend is granted under the conditions described below.

Dr. Omoyosi's Amended Complaint will once again be dismissed without prejudice. However, any future motion for leave to file a Second Amended Complaint MUST allege facts to establish that Dr. Omoyosi applied for a specific job posting, was not hired for that position, and contacted or filed a charge with the EEOC within 45 days of that specific decision. Failure to include each of those factual allegations in the proposed Second Amended Complaint will result in denial of the motion for leave to amend, this time with prejudice.

SO ORDERED this 20th day of April, 2021.

/s/
Stephanie A. Gallagher
United States District Judge